

1870-003 Chancery Causes: William D. Ewing for &c vs. Polly Hubbard &c
Lee Co.

Miller

CA - Debt

The Bill of Complaint of William J. Ewing who sues for the benefit of Joseph H. Miller respectfully represents that on the Twenty first day of June 1861 And Eli Hubbard of Lee County was indebted to your Orator in the Sum of \$74.32 and he executed to your orator on that day his bond for that Sum due one day after the date thereof which, ^{date} was June the 21st 1870 the Said bond is herewith filed and made a part of this Bill. Your Orator alleges that on the day of 1863 the Said Eli Hubbard departed this life without paying the debt due by Said bond or any part thereof and that since his death there has never been any personal-representative of Decedents estate to settle his debts and the Said debt is therefore still unpaid. Your Orator alleges that he has transferred the Said bond to Joseph H. Miller the Beneficiary plaintiff in this suit and ~~it~~ he is entitled to the benefit of it if it can be collected, and which your Orator alleges has never been paid, to Said Joseph H. Miller.

Your Orator further alleges that the Said Eli Hubbard before his death by last will and Testament devised his real estate lying and being in this County to his two daughters Polly Hubbard and Caroline Hubbard, ^{who are still unmarried} jointly with all his stock household furniture and farming utensils. And he willed to Elisabeth Hubbard his wife Fifty dollars which will was made with reference to Confederate money as a Standard of Value but no provision was made in Said will for the payment of his debts. The Said will was admitted

To recorded in the County Court Clerks office of Lee County at the June term of the County Court in the year 1863 but no administrator ^{or executor} was ever appointed. Your Orator further alleges that the Said Elisabeth Hubbard widow of Eli Hubbard deceased in the year 1865 filed a bill in chancery in the Circuit Court of Lee County against the Said Eli Hubbards heirs for the purpose of setting aside the will aforesaid upon the grounds as claimed by her that the Said Eli Hubbard had executed a subsequent will revoking the will admitted to probate and devising her all his real and personal estate which, she alleges was destroyed but which she seeks to set up in opposition to the first will admitted to record. Under these conflicting claims the suit is still pending in Scott County Circuit Court and the Said Polly & Caroline Hubbard on the one hand claiming all his decedents real estate and the Said Elisabeth Hubbard on the other hand claiming the same for nearly seven years and each party under their conflicting claims having having destroyed and made away with every thing personal in the absence of any personal representative or any person to take charge of his effects legally there remains nothing whatever but the land to make your Orators debt out of. And your Orator having waited from the date of his the Said Eli Hubbards bond until this time ~~and~~ for the payment of his debt and he alleges that there being no effects of the Said Eli Hubbard deceased in the hands of either of the parties claiming to be the devisees nor in the hands of any other persons known to

Your Orator in justice and equity the real estate ^{containing about 1000 acres and lying in the foot valley in Lee County Va} of the Said Eli Hubbard deceased should be subjected to the payment of your Orators Debt aforesaid and no person claiming to be entitled to his estate but the Said Polly and Caroline Hubbard on the one hand and the Said Elisabeth Hubbard on the other hand and her infant son Eli Hubbard who is claimed to be the son of Eli Hubbard ^{deceased}, as he was born but a short time after the Said Eli Hubbards death but whose rights ^{will} ~~are~~ not ^{be} so much affected by the decision of the will case now pending he being born after the death of his father his rights stand as if his father had died intestate.

Your Orator alleges that in any event the Said decedents real estate will be required to pay his debt and no decision of the Court in the will case will prevent it as neither will as claimed by the parties makes any provision for the payment of the decedents debts and your Orator alleges that ^{there} is now no personal effects of Decedents estate that can be liable to his debts, or secured for that purpose.

The prayer of your Orator therefore is that the Said Polly Hubbard and Caroline Hubbard and Elisabeth Hubbard and her infant son Eli Hubbard be made the parties defendant to this bill and that they be required to answer the same and that they be summoned for that purpose and that a Guardian ad litem be appointed to answer the bill for the infant Defendant Eli Hubbard and to defend this suit for him and that upon a hearing

To the worshipful County Court of Lee County Court of Lee
County in Chancery sitting :-

The response of Eli Hubbard, infant heir
of Eli Hubbard deceased, by John B. West, his Guardian
ad litem, to a Bill filed in your Worshipful Court
against said infant and others by William D. Ewing,
for the benefit of Joseph H. Miller, respectfully represents:

That he claims for his said ward the benefit of all
proper and legal exceptions to said Bill, and for answer
saith, this ward is of tender years, and of his own knowl-
edge cannot gainsay the allegations contained in the Com-
plainant's bill, but claims that protection which has ever
been extended by courts of Equity to and in behalf of
infants such as he, and asks that the Complainant be
required to proceed in the cause according to Equity, and
^{that} the Court will protect him in any and every thing that
effects his rights in the premises.

And if any further answer is proper to be made to said
Bill, your respondent saith as to whether the will admitted
to record in the clerk's office of this Court at the June term 1863
of said Court as the last will & Testament of Eli Hubbard
deceased ^{is the last will & Testament of said Hubbard} or whether it is true (as alleged by Elizabeth Hub-
bard - widow of Eli Hubbard dec'd - in a Bill in Chancery
filed by her in the year 1865 in the Circuit Court of this
County as Eli Hubbard's heirs) that the said Eli Hubbard
executed a subsequent will revoking the one that was ad-
mitted to probate, your respondent knows nothing nor has
his said ward or others informed him of any matter
in relation thereto. But inasmuch as your respondent's
ward was born ^{within ten months} ~~at short time~~ after the death of his
father, it seems to your respondent, that in case either
of the wills before mentioned be decided to be the genuine
will of Eli Hubbard, the claim of the Complainant
in the Bill aforesaid is equally to the prejudice of

your respondents' words, but your respondent knows of
nothing nor ^{has} his ward or others informed him of any-
thing which he can allege to prevent granting the prayer
of complainant's bill. And now having answered as
fully as is deemed material your respondent prays that
his said word be hence dismissed of costs.

John B. West, Guardian.

Sworn to before me by said
John B. West, Guardian ad litem
of said infant.

ad litem for said infant

John B. West, Guardian ad
litem for said infant
and 3 Answers.

William B. Ewing for the
Trustee at Sept. 1870
John B. West, Guardian

Free for this answer & see

1871

Wm. D. Ewing for &c. Plaintiff }
against } Deone
Jolly Hubbard & others Defendants } final

This Cause came on to be heard
And the defendant by his Counsel
moved that this Cause be dismissed which
is accordingly done and the Cause is
Stricken from the docket

Wm. J. Ewing
for VC.

vs. } Decree final -
}

Polly Hubbard
& others.

Entered O.R. 1874

William D. Ewing for & C. Pffs. }
against Polly Hubbard & others Defts } Decree

This Cause Came on this day to be heard upon the bill of complaint and exhibits filed in this Cause and the answer of Eli Hubbard then infant defendant by

his Guardian ad litem which was also filed in this Cause And the Cause was argued by Counsel And it appearing to the Court that the Defendants Polly Hubbard Caroline Hubbard and Elisabeth Hubbard had been duly served with process more than two months before this term of the Court and that a Guardian ad litem had been appointed and who answered the Complainants bill and defended the Suit for Eli Hubbard the infant defendant And that the Cause was regularly matured at rules and regularly set for hearing And the Adult defendants still not appearing to answer Complainants bill it is therefore taken for Confessed as to them And it further appearing that Eli Hubbard deceased was indebted to William D. Ewing in ~~in~~ the Sum of \$ 74.32 with interest Since the 22nd day of June ~~1860~~ 1861 till paid & which debt is now going to Joseph H. Miller and none of which has ever been paid. It is therefore adjudged ordered and decreed by this Court that William D. Ewing who Sues for the benefit of Joseph H. Miller recover against the Defendants the Sum of \$ 74.32 with legal interest thereon Since the 22nd day of June 1861 till paid And the Costs of this Suit and

it further appearing to the Court that there is no personal property or effects of the Decedents estate that can be reached to pay this decree it is further ordered adjudged and decreed that David Miller is hereby appointed by the Court a Commissioner whose duty it shall be at the instance of the Complainant or his personal representative to rent the lands of Eli Hubbard deceased in the bill mentioned for cash in hand sufficient and for a sufficient time to satisfy the principal interest and costs of this decree and the expenses of renting after advertising the time and place of renting for four weeks at the front door of the Court house and one or more public places in this County.

Wm. D. Manning for St.
vs. } Decree in Chy.
Eli Hubbard & others

\$74.32

\$74.32

One day after date I will pay to William
D. Ewing or assigns Seventy four Dollars
and thirty two cents for value received
Witness my hand & seal June 21st, 1861

Oli Hubbard Seal

E. Hubbard
To G. Mole
Wm D. Crook
p 74, 32

\$74.32

\$74.32

One day after date I will pay to William
D. Ewing or assigns Seventy four dollars and thirty
two cents for value received. Witness my
hand and Seal. June 21st 1861.

Eli Hubbard 

The above is a True Copy of a bond in my possession
on this the 11th day of March 1870. David Miller.

Wm. J. Ewing for &c.

vs. ³ Copy of bond

Eli Hubbards heirs



The Commonwealth of Virginia,



TO THE SHERIFF OF LEE COUNTY--GREETING:

WE COMMAND YOU TO SUMMON *Pally Hubbard, Caroline Hubbard,
Elizabeth Hubbard & Eli Hubbard.*

to appear before the Judge of our County Court for Lee County, at the Court-House, in thh Clerk's Office, at Rules to be holden for the said Court, on the *first-Monday in July* next, to answer *A bill in Chancery exhibited in our said Court against them by William D. Ewing, who sues for the benefit of Joseph H. Miller.*

And have then there this writ. Witness, JOHN B. WEST, Clerk of our said Court, at the Court-House this *15th* day of *June* 1870, in the *94th* year of the Commonwealth.

John B. West Clerk,

Mr.

Wm D Cuning for &c

vs 3 Sps in Chy.

Caroline Hubbard et al

July Rules 1870.

Entered by the undersigned
a true copy of the within
subscribed and signed by
Caroline Hubbard & Elizabeth
Hubbard and E. L. Hubbard
not found on the 24th
day of June 1870

by J. Wiley D. C. for
them the Supt. S. L. C.

Witnessed vs Caroline
Hubbard July 5th 1870.
J. W. C. r.

 The Commonwealth of Virginia, 

TO THE SHERIFF OF LEE COUNTY--GREETING:

^{again}
WE COMMAND YOU TO SUMMON *Polly Hubbard, Caroline Hubbard,*
Elizabeth Hubbard, & Eli Hubbard.

to appear before the Judge of our County Court for Lee County, at the Court-House, in the Clerk's Office, at Rules to be holden for said Court, on the *first* Monday in *August* next, to answer a bill in Chancery, exhibited in our said Court, against *them* by *William S. Ewing, who sues for the benefit of Joseph H. Miller.*

And have then there this writ. Witness, JOHN B. WEST, Clerk of our said Court, at the Court-House, this *8th* day of *July* 1870, in the *95th* year of the Commonwealth.

----- *John B. West* ----- Clerk.

LM

William D. Ewing for

vs ³ ₃ Miss Spier in Chy.

Caroline Hubbard et al

August Rules 1870:

Exercised by delivering
a true copy of the
within to Caroline
Hubbard on the 22 of
July 1870

J. Wiley D. S.